

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
v.) CRIMINAL NO. 04-10290-MEL
GABRIEL HERNANDEZ)
Defendant)

MOTION TO DISMISS

Now comes the defendant Gabriel Hernandez (“Hernandez”), by and through his attorney and moves to dismiss the indictment in the above captioned matter for the following reasons:

- (1). The delay in indicting the defendant. The defendant allegedly committed the crime, i.e. possessed a firearm, on July 25, 2002, but was not indicted on the charge until on or about September 22, 2005.
- (2) The delay in arresting the defendant. The defendant was not arrested on this charge until March 16, 2005, approximately 32 months after the alleged violation occurred and approximately six months after the indictment was returned.
- (3) The delay was caused solely by the government.

As a result of these delays Hernandez has been denied his right to a speedy trial under the Sixth Amendment as well as his rights under the Speedy Trial Act 18 U.S.C. 3161

In support hereof, the Defendant submits the attached memorandum.

Respectfully submitted
Gabriel Hernandez
By his Attorney

Albert F. Cullen, Jr.

Dated: August 8, 2005

CERTIFICATE OF SERVICE

I, Albert F. Cullen, Jr., hereby certify that a copy of the foregoing document was served electronically on each party in the case by filing this document electronically with the Court’s Clerk’s Office, this 8th day of August 2005

Albert F. Cullen, Jr.